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EXAMINER

JACKSON, DANIELLE

ART UNIT PAPER NUMBER

3636

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/763,998	Applicant(s) HOLLINS, PHILLIP	
	Examiner Danielle Jackson	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 112C and 112D (page 15). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the covering adjustment mechanism must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 11 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown (US-5,868,152).

Brown discloses a shade device comprising: a shaft (11); means for shielding a user from the sun, those means being the top surface of a covering (17) attached to the shaft; an audiovisual media, such as a television (not shown; column 2, lines 44-47), wherein the user may obtain entertainment; a built-in power source (the components housed in 10 with the electrical outlet 21) for powering the audiovisual media.

5. Claims 17-18, 20, 25, 31 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Louis (US-5,979,793).

Louis discloses a shade device comprising: a shaft (134); a covering (106) attached to the shaft, the top surface being configured to shield the user from the sun; a built-in reservoir (120) configured to hold coolant (122); a conduit (128) positioned within the reservoir; at least one sprayer (104) connected to the conduit, wherein the sprayer is configured to spray the coolant passing through the conduit from the reservoir; and a container (136) comprising a plurality of

interconnected walls defining an interior space for storing food and beverage, wherein the container is in thermal communication with the coolant from the reservoir, the temperature of coolant being configured to influence the temperature inside the container since the temperature of the coolant is cooler than the temperature outside the reservoir. Further regarding claims 18, 25 and 33, Louis teaches a built-in power source (160), a coolant pump (166) and a sprayer actuator (165), wherein the power source provides power to the coolant pump and the sprayer actuator is connected to the power source via the coolant pump. Louis teaches the sprayer actuator to control to turn off when the pressure of the coolant exceeds a determined pressure, thereby controlling the amount of liquid sprayed by the sprayer.

6. Claims 47, 49 and 50 are rejected under 35 U.S.C. 102(e) as being anticipated by Earnshaw et al. (US-7,207,343 B2).

Claim 47: Earnshaw et al. discloses a shade device comprising: a covering (not shown; column 3, lines 17-19) configured to provide shade to a user; a shaft (1) configured to support the covering; a covering adjustment mechanism (the tilting mechanism located above runner 4 in FIG.1) connected in between the covering and the shaft, the covering adjustment mechanism being configured to allow the covering to be moved to a plurality of positions; a controller (11) in communication with the covering adjustment mechanism, the controller being configured to be operated by a user.

Claim 49: Earnshaw et al. teaches the mechanisms of the shade device as being able of being controlled by a motor (column 2, lines 35-36), therefore including the covering adjustment mechanism. The covering adjustment mechanism comprises a swivel (comprised of elements 7, 8, 9, and 3) connected to the covering via element 2, wherein the user might adjust the position of the covering by using the controller (11) to operate and move the swivel. The motor (not shown) would be in communication with the controller and swivel so the motor could move the swivel so the covering adjustment mechanism functions as expected.

Claim 50: Earnshaw et al. shows the shade device further comprising a swivel (comprised of elements 7, 8, 9, and 3) being configured to move the covering at a plurality of angles and the swivel being controllable by the controller. The shaft (1a, 1b) defines a vertical axis as the shaft lies in the vertical plane, wherein the covering is able to be moved to a plurality of angles from the vertical axis.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 2-8 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Louis (US-5,979,793) in view of Brown (US-5,868,152).

Claims 1, 2-4 and 7-8: Louis discloses a shade device comprising: a shaft (134); a covering (106) attached to the shaft, the top surface being configured to shield the user from the sun; a built-in power source (160); a source of liquid (122); at least one sprayer (104) connected to the liquid source, wherein the sprayer is configured to spray the liquid; and a container (136) comprising a plurality of interconnected walls defining an interior space for storing food and beverage, wherein the container is in thermal communication with the coolant from the reservoir, the temperature of coolant being configured to influence the temperature inside the container since the temperature of the coolant is cooler than the temperature outside the reservoir. Louis lacks an audiovisual media. Brown teaches an umbrella having a built-in power source (the components housed in 10 with the electrical outlet 21) which may support an audiovisual media, such as a television (not shown; column 2, lines 44-47), wherein the user may obtain entertainment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Louis to include an audiovisual media, as suggested by Brown, since there is already a power supply and it would further entertain the user. Further regarding claim 2, 7 and 8, Louis teaches a liquid pumping means (166) and a sprayer actuator (165), wherein the power source provides power to the liquid pumping means and the sprayer actuator is connected to the power source via the liquid pumping means. Louis teaches the sprayer actuator to control to turn off when the pressure of the coolant exceeds a determined pressure, thereby controlling the amount of liquid

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sprayed by the sprayer. Furthermore, it would have been obvious to use a remote control of a timer to control the actuator because they are old and well-known methods of allowing the user to control the actuator or in this case, the amount of liquid sprayed from the sprayers.

Claims 5 and 6: Examiner takes official notice that digital video disc players and video game controllers are old and well-known audiovisual devices. It would have been obvious to provide devices for entertainment purposes.

Claim 46: Examiner takes official notice that fuel cells are old and well-known power sources. It would have been obvious to provide fuel cells as a more efficient and quieter power source.

8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Louis (US-5,979,793) in view of Brown (US-5,868,152) as applied to claim 1 above, and further in view of Wu (US-2003/0000559 A1). The combination of Louis and Brown lacks at least one solar cell and at least one rechargeable storage battery. Wu discloses an umbrella having a solar cell (2) configured to recharge at least one rechargeable storage battery (4; paragraph 17). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Louis and Brown to include a solar cell and a rechargeable battery, as suggested by Wu, so as to provide a more efficient means for powering the shade device with electricity and to reduce electricity costs.

9. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Louis (US-5,979,793) in view of Brown (US-5,868,152) as applied to claim 1 above, and

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further in view of Molnar, IV (US-6,298,866 B1). The combination of Louis and Brown comprises a base having an inner wall (127) and an outer wall (129) however, Louis and Brown lack a fan positioned within the inner wall (127) and at least one vent. Molnar, IV teaches a fan (18) and a vent (62) to allow air generated by the fan to be expelled. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Louis and Brown to include a fan and a vent, as suggested by Molnar, IV, and to locate the fan in the base so as to provide means for cooling the user using the cooler air stored in the base.

10. Claims 21-22 and 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Louis (US-5,979,793). Louis lacks a remote control or timer, however it would have been obvious to use a remote control of a timer to control the actuator because they are old and well-known methods of allowing the user to control the actuator or in this case, the amount of liquid sprayed from the sprayers.

11. Claims 12-13, 15, 35-38 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (US-5,868,152). Examiner takes official notice that digital video disc players, video game controllers, computers, televisions, and headphones are old and well-known audiovisual devices. It would have been obvious to provide devices for entertainment purposes.

12. Claims 14 and 39 rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (US-5,868,152). Examiner takes official notice that using a remote control in conjunction with an audiovisual device is old and well-known. It would have been

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obvious to provide a remote control for the audiovisual device for convenience to the user.

13. Claims 42 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (US-5,868,152). Examiner takes official notice that fuel cells are old and well-known power sources. It would have been obvious to provide fuel cells as a more efficient and quieter power source.

14. Claims 43 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Louis (US-5,979,793). Examiner takes official notice that fuel cells are old and well-known power sources. It would have been obvious to provide fuel cells as a more efficient and quieter power source.

15. Claims 16 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (US-5,868,152) as applied to claims 11 and 34 above, and further in view of Wu (US-2003/0000559 A1). Brown lacks at least one solar cell and at least one rechargeable storage battery. Wu discloses an umbrella having a solar cell (2) configured to recharge at least one rechargeable storage battery (4; paragraph 17). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Brown to include a solar cell and a rechargeable battery, as suggested by Wu, so as to provide a more efficient means for powering the shade device with electricity and to reduce electricity costs.

16. Claims 19 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Louis (US-5,979,793) as applied to claim 17 and 25 above, and further in view of Wu (US-2003/0000559 A1). Louis lacks at least one solar cell and at least one

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rechargeable storage battery. Wu discloses an umbrella having a solar cell (2) configured to recharge at least one rechargeable storage battery (4; paragraph 17). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Louis to include a solar cell and a rechargeable battery, as suggested by Wu, so as to provide a more efficient means for powering the shade device with electricity and to reduce electricity costs.

17. Claims 23-24 and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Louis (US-5,979,793) as applied to claim 17, 25 and 31 above, and further in view of Molnar, IV (US-6,298,866 B1). Louis comprises a base having an inner wall (127) and an outer wall (129) however, Louis lacks a fan positioned within the inner wall (127) and at least one vent. Molnar, IV teaches a fan (18) and a vent (62) to allow air generated by the fan to be expelled. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Louis to include a fan and a vent, as suggested by Molnar, IV, and to locate the fan in the base proximate to the conduit so as to provide means for cooling the user using the cooler air influenced by the conduit.

18. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Louis (US-5,979,793) as applied to claim 31 above, and further in view of Brown (US-5,868,152). Louis lacks an audiovisual media. Brown teaches an umbrella having a built-in power source (the components housed in 10 with the electrical outlet 21) which may support an audiovisual media, such as a television (not shown; column 2, lines 44-47), wherein the user may obtain entertainment. It would have been obvious to one of

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ordinary skill in the art at the time the invention was made to modify Louis to include an audiovisual media, as suggested by Brown, since there is already a power supply and it would further entertain the user.

19. Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Earnshaw et al. (US-7,207,343 B2). Earnshaw lacks the controller being detached from the shade device, however it would have been obvious to make the controller detachable from the shade device so that user could adjust the angle of the covering from a distance.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danielle Jackson whose telephone number is (571) 272-2268. The examiner can normally be reached on Monday through Friday 8:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on (571) 272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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